



PATENT
Docket No. 204372000301

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Assistant Commissioner for Patents, Washington, D.C. 20231, on July 14, 2000.

Joy Day

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Lynn E. Spitler, *et al.*

Serial No.: 09/300,978

Filing Date: 28 April 1999

For: PROSTATIC CANCER VACCINE

Examiner: Phillip Gambel

Group Art Unit: 1644

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This is in response to an Office Action herein mailed 21 June 2000, time for response to which was set to expire 21 July 2000. Restriction was required with respect to the subject matter claims 13-24 as was an election of species. Applicants hereby elect to prosecute the subject matter drawn to methods of eliciting an antitumor response by administering a protein or portion thereof (Group II) and elect the species PSMA. Both elections were with traverse.

Applicants are unable to understand what has caused the change in policy from examination in the parent case herein which issued as U.S. patent 5,925,362. No such restriction was required in that case; indeed, claim 1 as issued is directed to a method to elicit an antitumor immune response by administering either PSA protein or an expression system therefor. It is unclear why this policy is not maintained in the present application.



Further, no election of species was required in the parent; the claims were narrowed to PSA in order to expedite prosecution, not because of an election of species requirement. Nevertheless, in order to comprise a complete response, applicants point out that claims 13, 14, 15, and 20-24 include the elected species and invention.

Reconsideration of the restriction and election of species requirements is respectfully requested.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 204372000301. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Dated: July 14, 2000

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